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EXAMINER

ADAMS, GREGORY W

ART UNIT

PAPER NUMBER

3652

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Please find below and/or attached an Office communication concerning this application or proceeding.



<p><i>Office Action Summary</i></p>	<b>Application No.</b> 10/603,020	<b>Applicant(s)</b> DAVIS, BURNETT	
	<b>Examiner</b> Gregory W. Adams	<b>Art Unit</b> 3652	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 November 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. ____.  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____.   | 6) <input type="checkbox"/> Other: ____.                                    |



## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. Referring to Specification, page 1, Ins. 19-20, the listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

### ***Drawings***

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: Referring to Specification page 6, line 21, the "rear end (250)" is not shown. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.



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3. Referring to Specification page 7, Ins. 2-3, the drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "410" has been used to designate both --second stationary block-- and a --stationary block--. Moreover, while there is a second stationary block, from the drawings it is difficult to locate the other, i.e. first, stationary block. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

4. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims.

5. Referring to claim 10, line, 1, the "recess" must be shown or the feature(s) canceled from the claim(s). Referring to claim 15, line, 2, the "U-shape slotted hook" must be shown or the feature(s) canceled from the claim(s).

6. No new matter should be entered. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being



amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claim 14 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 14 recites the limitation "upper surface" in line 4. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.



10. Claims 1-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Perry et al. (US 4,036,382).

11. With respect to claims 1 & 6, referring to FIGS. 1-13 Perry et al. disclose a hand cart for lifting and transporting a container 20 comprising a base frame 40, wheel 36, cradle 41, elongated bar 21, 24, 25, 26 attached to base frame 40, arm 44 mounted to bar 21, 24, 25, 26, arm first edge 44, arm structure opposite second edge 44, bumper mechanism 44, contacts container neck 19, arm catch mechanism 44, means for engaging and disengaging a catch mechanism 44, hand assembly 22, 23 (col. 3, Ins. 36-38).

12. With respect to claim 2, referring to FIGS. 1-13 Perry et al. disclose a catch mechanism is a recess 44.

13. With respect to claim 3, referring to FIGS. 1-13 Perry et al. disclose a catch mechanism orifice 44.

14. With respect to claim 4, referring to FIGS. 1-13 Perry et al. disclose a hand assembly (col. 3, Ins. 36-38) further comprising parallel spaced apart support members 22, 23 (col. 3, Ins. 36-38) having upper and lower ends 22, 23 (col. 3, Ins. 36-38), a grip member on each upper end 22, 23 (col. 3, Ins. 36-38) and each lower end mounted to bar upper end (col. 3, Ins. 36-38).

15. With respect to claim 5, referring to FIGS. 1-13 Perry et al. disclose a means for engaging and disengaging a catch mechanism 44 further comprising a lever 46 connected to arm first edge 44 and a first edge 44 slides along a bar 21, 24, 25, 26.



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16. With respect to claim 7, referring to FIGS. 1-13 Perry et al. disclose a vertical plate 39, 43 and horizontal plate 41 supporting a cradle 41.

17. With respect to claim 8, referring to FIGS. 1-13 Perry et al. disclose a base frame further comprising a rigid horizontal plate 41 and a cradle 41.

18. With respect to claim 9, referring to FIGS. 1-13 Perry et al. disclose a polygonal arm structure 44.

19. With respect to claim 10, referring to FIGS. 1-13 Perry et al. disclose a bumper mechanism 44 is a recess 44 to fit a container neck 19.

20. With respect to claim 11, referring to FIGS. 1-13 Perry et al. disclose bumper mechanism is the opposite second edge 44.

21. With respect to claim 12, referring to FIGS. 1-13 Perry et al. disclose means for engaging and disengaging a catch mechanism 44, further comprising a lever mechanism 46 connected to arm first edge 44, and an arm hinge 45.

22. With respect to claim 13, referring to FIGS. 1-13 Perry et al. disclose a means for engaging and disengaging a catch mechanism 44 further comprising a lever mechanism 46 connected to arm first edge 44, and an arm hinge 45.

23. With respect to claim 14, referring to FIGS. 1-13 Perry et al. disclose a means for engaging and disengaging a catch mechanism 44 further comprising a lever mechanism 46 operably connected to an arm midpoint, and an arm hinge 45.

24. With respect to claim 15, referring to FIGS. 1-13 Perry et al. disclose an arm catch mechanism 44 further comprising an arm U-shape slotted hook 44 dimensioned to accommodate a container top 19.



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25. With respect to claim 16, referring to FIGS. 1-13 Perry et al. disclose means for engaging and disengaging a catch mechanism 44, further comprising an arm first edge 44 rotatably connected to an elongated bar 21, 24, 25, 26.

26. With respect to claim 17, referring to FIGS. 1-13 Perry et al. disclose a cylindrical elongated bar 21, 24, 25, 26.

27. With respect to claim 18, referring to FIGS. 1-13 Perry et al. disclose a rigid, metal elongated bar 21, 24, 25, 26 which opening backwards

28. With respect to claim 19, referring to FIGS. 1-13 Perry et al. disclose a hollow rectangular elongated bar 21, 24, 25, 26.

29. With respect to claim 20, referring to FIGS. 1-13 Perry et al. disclose a method for lifting and transporting a container comprising providing a hand cart 20 having a base frame 40, wheel 36, cradle 41, elongated bar 21, 24, 25, 26, handle 22, 23 (col. 3, Ins. 36-38) mounted upon the bar top 22, 23 (col. 3, Ins. 36-38), arm structure with a catch mechanism 44 and a bumper mechanism 44, lever mechanism (col. 5, Ins. 36-37), operably connected to an arm structure 44, a method comprising placing a hand-cart ( col. 5, Ins. 18-25), placing a hand on a hand assembly (col. 5, Ins. 18-25), placing a corresponding foot against a rear side of a bar member (col. 5, Ins. 18-25), pushing a hand assembly forward and pushing a base frame (col. 5, Ins. 18-25), pulling a lever mechanism to raise an arm structure to allow a container to sit, and releasing a lever mechanism (col. 5, Ins. 18-25).

30. With respect to claim 21, referring to FIGS. 1-13 Perry et al. disclose a hand cart for lifting and transporting a container from an upright position, a hand cart 20



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comprising a base frame 40 having a rigid horizontal plate member 41 supported by at least one wheel means 36, cradle 41 supported by the horizontal plate member 41, elongated bar 21, 24, 25, 26, arm structure 44, arm structure first edge 44 mounted to bar intermediate point arm structure opposite second edge 44, a bumper mechanism 44 integrated into the opposite second edge 44, a catch mechanism 44 within an arm structure 44 having an orifice which accommodates a container, a lever mechanism operably connected through the interior of the bar to an arm first edge 44 which is slideably mounted upon a bar 21, 24, 25, 26 (col. 3, Ins. 25-35), and a hand assembly 22, 23 (col. 3, Ins. 36-38) mounted upon a bar upper end 21, 24, 25, 26

### ***Conclusion***

31. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US 3,868,033 to Le Duff discloses a hinged arm with a recess/orifice.

US 5,379,814 to Posly discloses a hand cart with an elongated bar, levers, and arms with recesses.

US 5,425,614 to Perussi et al. discloses a hand cart with an arm that travels along an elongated bar with a lever to actuate the travel.

US 5,489,182 to Habicht discloses an arm traveling on an elongated bar with a recess/orifice.

US 5,626,073 to Bauer discloses a hinging arm traveling along an elongated edge.

US 1,827,209 to Robbins discloses a hand cart with arms with recesses.



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US 3,086,664 to Gribble discloses a hand cart with arms having an orifice for connection to a container neck, the hand cart having tubular elongate bars upon which an arm travels, and a lever to effect said travel.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory W. Adams whose telephone number is (703) 305-0555. The examiner can normally be reached on M-F, 8:30am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen D. Lillis can be reached on (703) 308-3248. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

GWA

  
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